

SENATE BILL 9074

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 21; Title 33; Title 37; Title 49; Title 50;
Title 63; Title 68 and Title 71, relative to COVID-
19.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 21, is amended by adding
the following as a new part:

4-21-1101. Part definitions.

As used in this part:

(1) "Assisted-care living facility" has the same meaning as the term is
defined in § 68-11-201;

(2) "COVID-19" means the novel coronavirus, SARS-CoV-2, and
coronavirus disease 2019, commonly referred to as COVID-19, including any
mutation of SARS-CoV-2 or COVID-19;

(3) "Discriminatory practice" means a direct or indirect act or practice of
exclusion, distinction, restriction, segregation, limitation, refusal, denial, or
another act or practice of differentiation or preference in the treatment of a
person or persons based on the person's vaccination status or whether the
person has an immunity passport;

(4) "Employer" means the state, or any political or civil subdivision
thereof, and persons employing eight (8) or more persons within the state, or any
person acting as an agent of an employer, directly or indirectly;

(5) "Healthcare facility" means:

(A) A "facility" as the term is defined in § 68-11-201(15); or

(B) A facility licensed under title 33;

(6) "Immunity passport" means a document, digital record, or software application indicating that a person is immune to COVID-19, either through vaccination or infection and recovery;

(7) "Nursing home" has the same meaning as the term is defined in § 68-11-201(29);

(8) "Person" includes one (1) or more individuals, governments, governmental agencies, public authorities, labor organizations, corporations, legal representatives, partnerships, associations, trustees, trustees in bankruptcy, receivers, mutual companies, joint stock companies, trusts, unincorporated organizations, or other organized groups of persons;

(9) "Places of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, that supplies goods or services to the general public or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds, except that:

(A) A bona fide private club is not a place of public accommodation, resort, or amusement if its policies are determined solely by its members; and

(B) Its facilities or services are available only to its members and their bona fide guests;

(10) "Public employee" means any person holding a position by appointment or employment in the service of a public employer;

(11) "Public officer" means an individual who is elected or appointed to serve or represent a public agency or governmental entity, other than an employee or independent contractor of a public agency or governmental entity; and

(12) "Vaccination status" means an indication of whether a person has received one (1) or more doses of a vaccine for COVID-19.

4-21-1102. Discrimination based on vaccination status or possession of immunity passport prohibited.

(a) Except as provided in subsection (b), it is an unlawful discriminatory practice for:

(1) A person, public officer, public employee, or a governmental entity to refuse, withhold from, or deny to a person a service, good, facility, advantage, privilege, license, educational opportunity, healthcare access, or employment opportunity based on the person's vaccination status or whether the person has an immunity passport;

(2) An employer to refuse employment to a person, to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment based on the person's vaccination status or whether the person has an immunity passport; or

(3) A place of public accommodation, resort, or amusement to exclude, limit, segregate, refuse to serve, or otherwise discriminate against a person based on the person's vaccination status or whether the person has an immunity passport.

(b) This section does not apply to vaccination requirements set forth for a school, nursery school, kindergarten, preschool, or child care facility pursuant to title 49, chapter 6, part 50.

(c)

(1) A person, governmental entity, or employer does not unlawfully discriminate under this section if the person, entity, or employer recommends that an employee receive a vaccine.

(2) A healthcare facility does not unlawfully discriminate under this section if the healthcare facility:

(A) Asks an employee to volunteer the employee's vaccination status or immunity passport for the purpose of determining whether the healthcare facility should implement reasonable accommodation measures to protect the safety and health of employees, patients, visitors, and other persons from communicable diseases. A healthcare facility may consider an employee to be nonvaccinated or nonimmune to COVID-19 if the employee declines to provide the employee's vaccination status or immunity passport to the healthcare facility for purposes of determining whether reasonable accommodation measures should be implemented; and

(B) Implements reasonable accommodation measures for employees, patients, visitors, and other persons who are not vaccinated or not immune to COVID-19 to protect the safety and health of employees, patients, visitors, and other persons from COVID-19.

4-21-1103. Exemptions.

A nursing home or assisted-care living facility is exempt from compliance with § 4-21-1102 and SECTION 2 during a period of time that compliance with § 4-21-1102 or SECTION 2 would result in a violation of regulations or guidance issued by the federal centers for medicare and medicaid services or the federal centers for disease control and prevention.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 5, Part 1, is amended by adding the following as a new section:

(a) A person shall not require another person to receive a vaccine for COVID-19 whose use is allowed under an emergency use authorization or a vaccine for COVID-19 undergoing safety trials prior to receiving full approval from the federal food and drug administration.

(b) As used in this section, "person" includes one (1) or more individuals, governments, governmental agencies, public authorities, labor organizations, corporations, legal representatives, partnerships, associations, trustees, trustees in bankruptcy, receivers, mutual companies, joint stock companies, trusts, unincorporated organizations, or other organized groups of persons.

SECTION 3. The department of health, county health departments, and county boards of health must prominently display the text of § 4-21-1101 and § 4-21-1102 on the home pages of their websites, if available, for at least six (6) months after the effective date of this act.

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 5. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 6. This act takes effect January 1, 2022, the public welfare requiring it.